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## DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-205220, B-205220.2      DATE: December 16, 1981  
MATTER OF: Lumaside, Inc.

## DIGEST:

Post-award protests by potential subcontractor against allegedly restrictive electrostatic painting requirements are dismissed as untimely. Requirements were clearly stated in Government's solicitations so that protests should have been filed before bid opening dates.

Lumaside, Inc. protests its rejection as a proposed subcontractor under construction contracts awarded by officials at Fort Sill (Army) (contract number DABT 39-81-C-6097) and at Vance Air Force Base. In both cases, the officials have refused to permit prime contractors to use steel siding offered by Lumaside because the finish coat of paint is not applied using an electrostatic process, as required by the contracts.

Lumaside believes that the Government's insistence on electrostatic painting is unduly restrictive. According to Lumaside, electrostatically painted steel siding is available only from an affiliate of U.S. Steel Corporation, and represents an outmoded methodology which will produce an inferior end product.

The protests are dismissed as untimely. In each, the prime contract solicitation called for the use of electrostatically painted steel siding. Under our Bid Protest Procedures, protests concerning defects apparent in a prime contract solicitation must be filed before bid opening or the closing date for receipt of proposals under the prime contract, as appropriate. 4 C.F.R. § 21.2(b)(1)(1981); Truland Corporation; Compuquard Corporation, B-189505, September 26, 1977, 77-2 CPD 226. In this respect, the

Government published both requirements in the Commerce Business Daily, which we have held constitutes constructive notice of a synopsisized solicitation and its contents. Lutz Superdync, Inc., B-201553, February 20, 1981, 81-1 CPD 122.

We recognize that this rule attributing constructive knowledge of a solicitation restriction to a subcontractor may appear to be somewhat harsh when applied to a protester who actually may have been unaware of the subcontracting restriction. We believe, however, that the rule is necessary to minimize the potential for abuse at least in those instances where it otherwise would be possible for a subcontractor to file a protest that would be untimely if it were filed by the intended prime contractor.

Accordingly, the protests are dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel